



House of Representatives

General Assembly

File No. 167

February Session, 2006

House Bill No. 5565

House of Representatives, March 28, 2006

The Committee on Environment reported through REP. ROY of the 119th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE COASTAL AREA.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-91 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 The General Assembly finds that:

4 (1) The waters of Long Island Sound and its coastal resources,
5 including tidal rivers, streams and creeks, wetlands and marshes,
6 intertidal mudflats, beaches and dunes, bluffs and headlands, islands,
7 rocky shorefronts, and adjacent shorelands form an integrated natural
8 estuarine ecosystem which is both unique and fragile;

9 (2) Development of Connecticut's coastal area has been extensive
10 and has had a significant impact on Long Island Sound and its coastal
11 resources;

12 (3) The coastal area represents an asset of great present and

13 potential value to the economic well-being of the state, and there is a
14 state interest in the effective management, beneficial use, protection
15 and development of the coastal area;

16 (4) The waterfront of Connecticut's major urban ports is
17 underutilized and many existing urban waterfront uses are not directly
18 dependent on proximity to tidal or coastal waters;

19 (5) The coastal area is rich in a variety of natural, economic,
20 recreational, cultural and aesthetic resources, but the full realization of
21 their value can be achieved only by encouraging further development
22 in suitable areas and by protecting those areas unsuited to
23 development;

24 (6) The key to improved public management of Connecticut's
25 coastal area is coordination at all levels of government and
26 consideration by municipalities of the impact of development on both
27 coastal resources and future water-dependent development
28 opportunities when preparing plans and regulations and reviewing
29 municipal and private development proposals; and

30 (7) Unplanned population growth and economic development in
31 the coastal area have caused the loss of living marine resources,
32 wildlife and nutrient-rich areas, and have endangered other vital
33 ecological systems and scarce resources.

34 Sec. 2. Section 22a-92 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective October 1, 2006*):

36 (a) The following general goals and policies are established by this
37 chapter:

38 (1) To insure that the development, preservation or use of the land
39 and water resources of the coastal area proceeds in a manner
40 consistent with the capability of the land and water resources to
41 support development, preservation or use without significantly
42 disrupting either the natural environment or sound economic growth;

43 (2) To preserve and enhance coastal resources in accordance with
44 the policies established by chapters 439, 440, 446i, 446k, 447, 474 and
45 477;

46 (3) To give high priority and preference to uses and facilities which
47 are dependent upon proximity to the water or the shorelands
48 immediately adjacent to marine and tidal waters;

49 (4) To resolve conflicts between competing uses on the shorelands
50 adjacent to marine and tidal waters by giving preference to uses that
51 minimize adverse impacts on natural coastal resources while
52 providing long term and stable economic benefits;

53 (5) To consider in the planning process the potential impact of
54 coastal flooding and erosion patterns on coastal development so as to
55 minimize damage to and destruction of life and property and reduce
56 the necessity of public expenditure to protect future development from
57 such hazards;

58 (6) To encourage public access to the waters of Long Island Sound
59 by expansion, development and effective utilization of state-owned
60 recreational facilities within the coastal area that are consistent with
61 sound resource conservation procedures and constitutionally
62 protected rights of private property owners;

63 (7) To conduct, sponsor and assist research in coastal matters to
64 improve the data base upon which coastal land and water use
65 decisions are made;

66 (8) To coordinate the activities of public agencies to insure that state
67 expenditures enhance development while affording maximum
68 protection to natural coastal resources and processes in a manner
69 consistent with the state plan for conservation and development
70 adopted pursuant to part I of chapter 297;

71 (9) To coordinate planning and regulatory activities of public
72 agencies at all levels of government to insure maximum protection of
73 coastal resources while minimizing conflicts and disruption of

74 economic development; and

75 (10) To insure that the state and the coastal municipalities provide
76 adequate planning for facilities and resources which are in the national
77 interest, as defined in section 22a-93, as amended by this act, and to
78 insure that any restrictions or exclusions of such facilities or uses are
79 reasonable. Reasonable grounds for the restriction or exclusion of a
80 facility or use in the national interest shall include a finding that such a
81 facility or use: (A) May reasonably be sited outside the coastal
82 boundary; (B) fails to meet any applicable federal and state
83 environmental, health or safety standard; or (C) unreasonably restricts
84 physical or visual access to tidal or coastal waters. This policy does not
85 exempt any nonfederal facility in use from any applicable state or local
86 regulatory or permit program nor does it exempt any federal facility or
87 use from the federal consistency requirements of Section 307 of the
88 federal Coastal Zone Management Act.

89 (b) In addition to the policies stated in subsection (a) of this section,
90 the following policies are established for federal, state and municipal
91 agencies in carrying out their responsibilities under this chapter:

92 (1) Policies concerning development, facilities and uses within the
93 coastal [boundary] area are: (A) To manage uses in the coastal
94 [boundary] area through existing municipal planning, zoning and
95 other local regulatory authorities and through existing state structures,
96 dredging, wetlands, and other state siting and regulatory authorities,
97 giving highest priority and preference to water-dependent uses and
98 facilities in shorefront areas; (B) to locate and phase sewer and water
99 lines so as to encourage concentrated development in areas which are
100 suitable for development; and to disapprove extension of sewer and
101 water services into developed and undeveloped beaches, barrier
102 beaches and tidal wetlands except that, when necessary to abate
103 existing sources of pollution, sewers that will accommodate existing
104 uses with limited excess capacity may be used; (C) to promote,
105 through existing state and local planning, development, promotional
106 and regulatory authorities, the development, reuse or redevelopment

107 of existing urban and commercial fishing ports giving highest priority
108 and preference to water dependent uses, including but not limited to
109 commercial and recreational fishing and boating uses; to disallow uses
110 which unreasonably congest navigation channels, or unreasonably
111 preclude boating support facilities elsewhere in a port or harbor; and
112 to minimize the risk of oil and chemical spills at port facilities; (D) to
113 require that structures in tidal wetlands and tidal or coastal waters be
114 designed, constructed and maintained to minimize adverse impacts on
115 coastal resources, circulation and sedimentation patterns, water
116 quality, and flooding and erosion, to reduce to the maximum extent
117 practicable the use of fill, and to reduce conflicts with the riparian
118 rights of adjacent landowners; (E) to disallow the siting within the
119 coastal boundary of new tank farms and other new fuel and chemical
120 storage facilities which can reasonably be located inland and to require
121 any new storage tanks which must be located within the coastal
122 boundary to abut existing storage tanks or to be located in urban
123 industrial areas and to be adequately protected against floods and
124 spills; (F) to make use of rehabilitation, upgrading and improvement of
125 existing transportation facilities as the primary means of meeting
126 transportation needs in the coastal area; (G) to encourage increased
127 recreational boating use of tidal or coastal waters, where feasible, by (i)
128 providing additional berthing space in existing harbors, (ii) limiting
129 non-water-dependent land uses that preclude boating support
130 facilities, (iii) increasing state-owned launching facilities, and (iv)
131 providing for new boating facilities in natural harbors, new protected
132 water areas and in areas dredged from dry land; (H) to protect coastal
133 resources by requiring, where feasible, that such boating uses and
134 facilities (i) minimize disruption or degradation of natural coastal
135 resources, (ii) utilize existing altered, developed or redevelopment
136 areas, (iii) are located to assure optimal distribution of state-owned
137 facilities to the state-wide boating public, and (iv) utilize ramps and
138 dry storage rather than slips in environmentally sensitive areas; (I) to
139 protect and where feasible, upgrade facilities serving the commercial
140 fishing and recreational boating industries; to maintain existing
141 authorized commercial fishing and recreational boating harbor space

142 unless the demand for these facilities no longer exists or adequate
143 space has been provided; to design and locate, where feasible,
144 proposed recreational boating facilities in a manner which does not
145 interfere with the needs of the commercial fishing industry; and (J) to
146 require reasonable mitigation measures where development would
147 adversely impact historical, archaeological, or paleontological
148 resources that have been designated by the state historic preservation
149 officer.

150 (2) Policies concerning coastal land and water resources within the
151 coastal [boundary] area are: (A) To manage coastal bluffs and
152 escarpments so as to preserve their slope and toe; to discourage uses
153 which do not permit continued natural rates of erosion and to
154 disapprove uses that accelerate slope erosion and alter essential
155 patterns and supply of sediments to the littoral transport system; (B) to
156 manage rocky shorefronts so as to insure that development proceeds in
157 a manner which does not irreparably reduce the capability of the
158 system to support a healthy intertidal biological community; to
159 provide feeding grounds and refuge for shorebirds and finfish, and to
160 dissipate and absorb storm and wave energies; (C) to preserve the
161 dynamic form and integrity of natural beach systems in order to
162 provide critical wildlife habitats, a reservoir for sand supply, a buffer
163 for coastal flooding and erosion, and valuable recreational
164 opportunities; to insure that coastal uses are compatible with the
165 capabilities of the system and do not unreasonably interfere with
166 natural processes of erosion and sedimentation, and to encourage the
167 restoration and enhancement of disturbed or modified beach systems;
168 (D) to manage intertidal flats so as to preserve their value as a nutrient
169 source and reservoir, a healthy shellfish habitat and a valuable feeding
170 area for invertebrates, fish and shorebirds; to encourage the restoration
171 and enhancement of degraded intertidal flats; to allow coastal uses that
172 minimize change in the natural current flows, depth, slope,
173 sedimentation, and nutrient storage functions and to disallow uses that
174 substantially accelerate erosion or lead to significant despoliation of
175 tidal flats; (E) to preserve tidal wetlands and to prevent the
176 despoliation and destruction thereof in order to maintain their vital

177 natural functions; to encourage the rehabilitation and restoration of
178 degraded tidal wetlands and where feasible and environmentally
179 acceptable, to encourage the creation of wetlands for the purposes of
180 shellfish and finfish management, habitat creation and dredge spoil
181 disposal; (F) to manage coastal hazard areas so as to insure that
182 development proceeds in such a manner that hazards to life and
183 property are minimized and to promote nonstructural solutions to
184 flood and erosion problems except in those instances where structural
185 alternatives prove unavoidable and necessary to protect existing
186 inhabited structures, infrastructural facilities or water dependent uses;
187 (G) to promote, through existing state and local planning,
188 development, promotional and regulatory programs, the use of
189 existing developed shorefront areas for marine-related uses, including
190 but not limited to, commercial and recreational fishing, boating and
191 other water-dependent commercial, industrial and recreational uses;
192 (H) to manage undeveloped islands in order to promote their use as
193 critical habitats for those bird, plant and animal species which are
194 indigenous to such islands or which are increasingly rare on the
195 mainland; to maintain the value of undeveloped islands as a major
196 source of recreational open space; and to disallow uses which will
197 have significant adverse impacts on islands or their resource
198 components; (I) to regulate shoreland use and development in a
199 manner which minimizes adverse impacts upon adjacent coastal
200 systems and resources; and (J) to maintain the natural relationship
201 between eroding and depositional coastal landforms and to minimize
202 the adverse impacts of erosion and sedimentation on coastal land uses
203 through the promotion of nonstructural mitigation measures.
204 Structural solutions are permissible when necessary and unavoidable
205 for the protection of infrastructural facilities, water-dependent uses, or
206 existing inhabited structures, and where there is no feasible, less
207 environmentally damaging alternative and where all reasonable
208 mitigation measures and techniques have been provided to minimize
209 adverse environmental impacts.

210 (c) In addition to the policies stated in subsections (a) and (b) of this
211 section, the following policies are established for federal and state

212 agencies in carrying out their responsibilities under this chapter:

213 (1) Policies concerning development, facilities and uses within the
214 coastal [boundary] area are: (A) To minimize the risk of spillage of
215 petroleum products and hazardous substances, to provide effective
216 containment and cleanup facilities for accidental spills and to disallow
217 offshore oil receiving systems that have the potential to cause
218 catastrophic oil spills in the Long Island Sound estuary; (B) to disallow
219 any filling of tidal wetlands and nearshore, offshore and intertidal
220 waters for the purpose of creating new land from existing wetlands
221 and tidal or coastal waters which would otherwise be undevelopable,
222 unless it is found that the adverse impacts on coastal resources are
223 minimal; (C) to initiate in cooperation with the federal government
224 and the continuing legislative committee on state planning and
225 development a long-range planning program for the continued
226 maintenance and enhancement of federally-maintained navigation
227 facilities in order to effectively and efficiently plan and provide for
228 environmentally sound dredging and disposal of dredged materials; to
229 encourage, through the state permitting program for dredging
230 activities, the maintenance and enhancement of existing federally-
231 maintained navigation channels, basins and anchorages and to
232 discourage the dredging of new federally-maintained navigation
233 channels, basins and anchorages; (D) to reduce the need for future
234 dredging by requiring that new or expanded navigation channels,
235 basins and anchorages take advantage of existing or authorized water
236 depths, circulation and siltation patterns and the best available
237 technologies for reducing controllable sedimentation; (E) to disallow
238 new dredging in tidal wetlands except where no feasible alternative
239 exists and where adverse impacts to coastal resources are minimal; (F)
240 to require that new or improved shoreline rail corridors be designed
241 and constructed so as (i) to prevent tidal and circulation restrictions
242 and, when practicable, to eliminate any such existing restrictions, (ii) to
243 improve or have a negligible adverse effect on coastal access and
244 recreation, and (iii) to enhance or not unreasonably impair the visual
245 quality of the shoreline; (G) to require that coastal highways and
246 highway improvements, including bridges, be designed and

247 constructed so as to minimize adverse impacts on coastal resources; to
248 require that coastal highway and highway improvements give full
249 consideration to mass transportation alternatives and to require that
250 coastal highways and highway improvements where possible enhance,
251 but in no case decrease coastal access and recreational opportunities;
252 (H) to disallow the construction of major new airports and to
253 discourage the substantial expansion of existing airports within the
254 coastal boundary; to require that any expansion or improvement of
255 existing airports minimize adverse impacts on coastal resources,
256 recreation or access; (I) to manage the state's fisheries in order to
257 promote the economic benefits of commercial and recreational fishing,
258 enhance recreational fishing opportunities, optimize the yield of all
259 species, prevent the depletion or extinction of indigenous species,
260 maintain and enhance the productivity of natural estuarine resources
261 and preserve healthy fisheries resources for future generations; (J) to
262 make effective use of state-owned coastal recreational facilities in order
263 to expand coastal recreational opportunities including the
264 development or redevelopment of existing state-owned facilities where
265 feasible; (K) to require as a condition in permitting new coastal
266 structures, including but not limited to, groins, jetties or breakwaters,
267 that access to, or along, the public beach below mean high water must
268 not be unreasonably impaired by such structures and to encourage the
269 removal of illegal structures below mean high water which
270 unreasonably obstruct passage along the public beach; and (L) to
271 promote the revitalization of inner city urban harbors and waterfronts
272 by encouraging appropriate reuse of historically developed
273 shorefronts, which may include minimized alteration of an existing
274 shorefront in order to achieve a significant net public benefit, provided
275 (i) such shorefront site is permanently devoted to a water dependent
276 use or a water dependent public use such as public access or recreation
277 for the general public and the ownership of any filled lands remain
278 with the state or an instrumentality thereof in order to secure public
279 use and benefit in perpetuity, (ii) landward development of the site is
280 constrained by highways, railroads or other significant infrastructure
281 facilities, (iii) no other feasible, less environmentally damaging

282 alternatives exist, (iv) the adverse impacts to coastal resources of any
283 shorefront alteration are minimized and compensation in the form of
284 resource restoration is provided to mitigate any remaining adverse
285 impacts, and (v) such reuse is consistent with the appropriate
286 municipal coastal program or municipal plan of development.

287 (2) Policies concerning coastal land and other resources within the
288 coastal [boundary] area are: (A) To manage estuarine embayments so
289 as to insure that coastal uses proceed in a manner that assures
290 sustained biological productivity, the maintenance of healthy marine
291 populations and the maintenance of essential patterns of circulation,
292 drainage and basin configuration; to protect, enhance and allow
293 natural restoration of eelgrass flats except in special limited cases,
294 notably shellfish management, where the benefits accrued through
295 alteration of the flat may outweigh the long-term benefits to marine
296 biota, waterfowl, and commercial and recreational finfisheries; and (B)
297 to maintain, enhance, or, where feasible, restore natural patterns of
298 water circulation and fresh and saltwater exchange in the placement or
299 replacement of culverts, tide gates or other drainage or flood control
300 structures.

301 (d) In addition to the policies in this section, the policies of the state
302 plan of conservation and development adopted pursuant to part I of
303 chapter 297 shall be applied to the coastal area [within the coastal
304 boundary] in accordance with the requirements of section 16a-31.

305 Sec. 3. Section 22a-93 of the general statutes is repealed and the
306 following is substituted in lieu thereof (*Effective October 1, 2006*):

307 For the purposes of this chapter:

308 (1) "Commissioner" means the Commissioner of Environmental
309 Protection;

310 (2) "Municipality" means any town listed in subsection (a) of section
311 22a-94, as amended by this act, the city of Groton, the borough of
312 Stonington, the borough of Groton Long Point, the borough of

313 Fenwick and the borough of Woodmont, but shall not include any
314 special district;

315 (3) "Coastal area" means those lands described in subsection (a) of
316 section 22a-94, as amended by this act;

317 (4) "Coastal boundary" means the boundary described in subsection
318 (b) of section 22a-94, as amended by this act;

319 (5) "Coastal waters" means those waters of Long Island Sound and
320 its harbors, embayments, tidal rivers, streams and creeks, which
321 contain a salinity concentration of at least five hundred parts per
322 million under the low flow stream conditions as established by the
323 commissioner;

324 (6) "Public beach" means that portion of the shoreline held in public
325 fee ownership by the state or that portion of the shoreline below the
326 mean high tide elevation that is held in public trust by the state;

327 (7) "Coastal resources" means the tidal or coastal waters of the state,
328 their natural resources, related marine and wildlife habitat and
329 adjacent shorelands, both developed and undeveloped, that together
330 form an integrated terrestrial and estuarine ecosystem; coastal
331 resources include the following: (A) "Coastal bluffs and escarpments"
332 means naturally eroding shorelands marked by dynamic escarpments
333 or sea cliffs which have slope angles that constitute an intricate
334 adjustment between erosion, substrate, drainage and degree of plant
335 cover; (B) "rocky shorefronts" means shorefront composed of bedrock,
336 boulders and cobbles that are highly erosion-resistant and are an
337 insignificant source of sediments for other coastal landforms; (C)
338 "beaches and dunes" means beach systems including barrier beach
339 spits and tombolos, barrier beaches, pocket beaches, land contact
340 beaches and related dunes and sandflats; (D) "intertidal flats" means
341 very gently sloping or flat areas located between high and low tides
342 composed of muddy, silty and fine sandy sediments and generally
343 devoid of vegetation; (E) "tidal wetlands" means "wetland", as defined
344 [by] in section 22a-29; (F) "freshwater wetlands and watercourses"

345 means "wetlands" and "watercourses", as defined [by] in section 22a-
346 38; (G) "estuarine embayments" means a protected coastal body of
347 water with an open connection to the sea in which saline sea water is
348 measurably diluted by fresh water including tidal rivers, bays, lagoons
349 and coves; (H) "coastal hazard areas" means those land areas
350 inundated during coastal storm events or subject to erosion induced by
351 such events, including flood hazard areas as defined and determined
352 by the National Flood Insurance Act, as amended (USC 42 Section
353 4101, P.L. 93-234) and all erosion hazard areas as determined by the
354 commissioner; (I) "developed shorefront" means those harbor areas
355 which have been highly engineered and developed resulting in the
356 functional impairment or substantial alteration of their natural
357 physiographic features or systems; (J) "island" means land surrounded
358 on all sides by water; (K) "nearshore waters" means the area comprised
359 of those waters and their substrates lying between mean high water
360 and a depth approximated by the ten meter contour; (L) "offshore
361 waters" means the area comprised of those waters and their substrates
362 lying seaward of a depth approximated by the ten meter contour; (M)
363 "shorelands" means those land areas within the coastal boundary
364 exclusive of coastal hazard areas, which are not subject to dynamic
365 coastal processes and which are comprised of typical upland features
366 such as bedrock hills, till hills and drumlins; (N) "shellfish
367 concentration areas" means actual, potential or historic areas in coastal
368 waters, in which one or more species of shellfish aggregate;

369 (8) "Zoning commission" means the municipal zoning commission
370 established under section 8-1 or by any special act or the combined
371 planning and zoning commission established under section 8-4a;

372 (9) "Planning commission" means the municipal planning
373 commission established under section 8-19 or by any special act or the
374 combined planning and zoning commission established under section
375 8-4a;

376 (10) "Municipal coastal plans" means the plans listed in subsections
377 (b) and (d) of section 22a-101;

378 (11) "Municipal coastal regulations" means the regulations and
379 ordinances listed in subsection (b) of section 22a-101;

380 (12) "Federal Coastal Zone Management Act" and "federal act"
381 means the U.S. Coastal Zone Management Act of 1972, as amended;

382 (13) "Coastal site plans" means the site plans, applications and
383 project referrals listed in section 22a-105;

384 (14) "Facilities and resources which are in the national interest"
385 means: (A) Adequate protection of tidal wetlands and related estuarine
386 resources; (B) restoration and enhancement of Connecticut's shellfish
387 industry; (C) restoration, preservation and enhancement of the state's
388 recreational and commercial fisheries, including anadromous species;
389 (D) water pollution control measures and facilities consistent with the
390 requirements of the federal Clean Water Act, as amended; (E) air
391 pollution control measures and facilities consistent with the
392 requirements of the federal Clean Air Act, as amended; (F) continued
393 operations of existing federally-funded dredged and maintained
394 navigation channels and basins; (G) energy facilities serving state-wide
395 and interstate markets, including electric generating facilities and
396 facilities for storage, receiving or processing petroleum products and
397 other fuels; (H) improvements to the existing interstate rail, highway
398 and water-borne transportation system; (I) provision of adequate state
399 or federally-owned marine-related recreational facilities, including
400 natural areas and wildlife sanctuaries; and (J) essential maintenance
401 and improvement of existing water-dependent military, navigational,
402 resource management and research facilities;

403 (15) "Adverse impacts on coastal resources" include, but are not
404 limited to: (A) Degrading water quality through the significant
405 introduction into [either] tidal or coastal waters or groundwater
406 supplies of suspended solids, nutrients, toxics, heavy metals or
407 pathogens, or through the significant alteration of temperature, pH,
408 dissolved oxygen or salinity; (B) degrading existing circulation
409 patterns of tidal or coastal waters through the significant alteration of
410 patterns of tidal exchange or flushing rates, freshwater input, or

411 existing basin characteristics and channel contours; (C) degrading
412 natural erosion patterns through the significant alteration of littoral
413 transport of sediments in terms of deposition or source reduction; (D)
414 degrading natural or existing drainage patterns through the significant
415 alteration of groundwater flow and recharge and volume of runoff; (E)
416 increasing the hazard of coastal flooding through significant alteration
417 of shoreline configurations or bathymetry, particularly within high
418 velocity flood zones; (F) degrading visual quality through significant
419 alteration of the natural features of vistas and view points; (G)
420 degrading or destroying essential wildlife, finfish or shellfish habitat
421 through significant alteration of the composition, migration patterns,
422 distribution, breeding or other population characteristics of the natural
423 species or significant alteration of the natural components of the
424 habitat; and (H) degrading tidal wetlands, beaches and dunes, rocky
425 shorefronts, and bluffs and escarpments through significant alteration
426 of their natural characteristics or function;

427 (16) "Water-dependent uses" means those uses and facilities which
428 require direct access to, or location in, marine or tidal waters and
429 which therefore cannot be located inland, including but not limited to:
430 Marinas, recreational and commercial fishing and boating facilities,
431 finfish and shellfish processing plants, waterfront dock and port
432 facilities, shipyards and boat building facilities, water-based
433 recreational uses, navigation aides, basins and channels, industrial
434 uses dependent upon water-borne transportation or requiring large
435 volumes of cooling or process water which cannot reasonably be
436 located or operated at an inland site and uses which provide general
437 public access to marine or tidal waters;

438 (17) "Adverse impacts on future water-dependent development
439 opportunities" and "adverse impacts on future water-dependent
440 development activities" include but are not limited to (A) locating a
441 non-water-dependent use at a site that (i) is physically suited for a
442 water-dependent use for which there is a reasonable demand, or (ii)
443 has been identified for a water-dependent use in the plan of
444 development of the municipality or the zoning regulations; (B)

445 replacement of a water-dependent use with a non-water-dependent
446 use; [J] and (C) siting of a non-water-dependent use which would
447 substantially reduce or inhibit existing public access to marine or tidal
448 waters; and

449 (18) "Zoning board of appeals" means the municipal zoning board of
450 appeals established pursuant to section 8-5 or any special act.

451 Sec. 4. Section 22a-94 of the 2006 supplement to the general statutes
452 is repealed and the following is substituted in lieu thereof (*Effective*
453 *October 1, 2006*):

454 (a) The Connecticut coastal area shall include the land and water
455 within the area delineated by the following: The westerly, southerly
456 and easterly limits of the state's jurisdiction in Long Island Sound; the
457 towns of Greenwich, Stamford, Darien, Norwalk, Westport, Fairfield,
458 Bridgeport, Stratford, Shelton, Derby, Milford, Orange, West Haven,
459 New Haven, Hamden, North Haven, East Haven, Branford, Guilford,
460 Madison, Clinton, Westbrook, Deep River, Chester, Haddam,
461 Middletown, Cromwell, Rocky Hill, Wethersfield, Hartford, Windsor,
462 Windsor Locks, Suffield, Enfield, East Windsor, South Windsor, East
463 Hartford, Glastonbury, Portland, East Hampton, East Haddam, Essex,
464 Old Saybrook, Lyme, Old Lyme, East Lyme, Waterford, New London,
465 Montville, Norwich, Preston, Ledyard, Groton and Stonington.

466 (b) Within the coastal area, there shall be a coastal boundary which
467 shall be a continuous line delineated on the landward side by the
468 interior contour elevation of the one hundred year frequency coastal
469 flood zone, as defined and determined by the National Flood
470 Insurance Act, as amended (USC 42 Section 4101, P.L. 93-234), or a one
471 thousand foot linear setback measured from the mean high water mark
472 in coastal waters, or a one thousand foot linear setback measured from
473 the inland boundary of tidal wetlands mapped under section 22a-20,
474 whichever is farthest inland; and shall be delineated on the seaward
475 side by the seaward extent of the jurisdiction of the state, except that
476 the boundary shall not include any land or water area within the
477 towns of Derby, Haddam, Middletown, Cromwell, Rocky Hill,

478 Wethersfield, Hartford, Windsor, Windsor Locks, Suffield, Enfield,
479 East Windsor, South Windsor, East Hartford, Glastonbury, Portland,
480 East Hampton and East Haddam and the inclusion of said towns
481 within the coastal area shall not expand, impair or modify existing
482 municipal authorities under this chapter.

483 (c) The coastal boundary as defined in subsection (b) of this section
484 shall be shown on maps or photographs prepared by the commissioner
485 which supplement flood hazard rate maps prepared by the United
486 States Department of Housing and Urban Development under the
487 National Flood Insurance Act. Such maps shall be sufficiently precise
488 to demonstrate whether the holdings of a property owner, or portions
489 thereof, lie within the coastal boundary. Copies of such maps or
490 photographs shall be filed with the commissioner and with the clerk of
491 each coastal municipality.

492 (d) The maps described in subsection (c) of this section shall be
493 promulgated not later than July 1, 1980. Prior to final adoption of any
494 map, the commissioner shall hold a public hearing in accordance with
495 the provisions of chapter 54 within the applicable coastal town. The
496 commissioner may use interim maps prepared on United States
497 Geological Survey Topographic base at a scale of one to twenty-four
498 thousand or their metric equivalent. In preparing such interim maps,
499 the commissioner may use any man-made structure, natural feature,
500 property line, preliminary flood hazard boundary maps as prepared
501 by the United States Department of Housing and Urban Development,
502 or a combination thereof which most closely approximates the
503 landward side of the boundary. Further, the commissioner may use
504 city or town property tax maps or aerial photographs, state tidal
505 wetlands photographs, or similar maps of property delineation as they
506 are available.

507 (e) The commissioner may, from time to time, amend such maps
508 described in subsection (c) of this section. Prior to the adoption of an
509 amendment to any map, the commissioner shall hold a public hearing
510 in the affected municipality in accordance with the provisions of

chapter 54. The commissioner shall consider for amendment changes in the boundary petitioned by the coastal municipality, by any person owning real property within the boundary, or by twenty-five residents of such municipality. The commissioner shall approve, deny or modify such petition within sixty days of receipt and shall state, in writing, the reasons for his action. All amendments to the boundary shall be consistent with subsection (b) of this section.

(f) A municipal coastal boundary may be adopted by the municipal planning commission of each coastal municipality in accordance with the notice, hearing and other procedural requirements of section 8-24. Such boundary may be delineated by roads, property lines or other identifiable natural or man-made features, provided such boundary shall approximate and in no event diminish the area within the coastal boundary as defined in subsection (b) of this section and as mapped under subsection (d) of this section. Such boundary shall be sufficiently precise to demonstrate whether the holdings of a property owner, or portions thereof, lie within the boundary. Upon adoption, such boundary shall be submitted to the commissioner for mapping in accordance with subsection (c) of this section. The municipal planning commission may, at its own discretion or upon request of a property owner, amend the coastal boundary in accordance with the procedures and criteria of this subsection.

(g) All property lying within the coastal boundary shall be subject to the regulatory, development and planning requirements of this chapter.

Sec. 5. Section 22a-99 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

A coastal municipality may submit written testimony to the commissioner and may appear by right as a party to any hearing before said commissioner concerning any permit or license to be issued by said commissioner for an activity occurring within [the coastal boundary of] the municipality or occurring within the coastal boundary of any adjacent municipality and within five hundred feet of

544 the boundary of such municipality and may appeal any decision of the
545 commissioner concerning such permit or license.

546 Sec. 6. Section 22a-100 of the general statutes is repealed and the
547 following is substituted in lieu thereof (*Effective October 1, 2006*):

548 (a) All major state plans, other than the state plan for conservation
549 and development adopted pursuant to part I of chapter 297, which
550 affect the coastal area shall be consistent with the goals and policies
551 stated in section 22a-92, as amended by this act, and existing state
552 plans, other than the state plan for conservation and development
553 adopted pursuant to part I of chapter 297, which affect the coastal area
554 shall, on or before July 1, 1981, be revised, if necessary, to insure
555 consistency with this chapter. Agencies responsible for revising state
556 plans, other than the state plan for conservation and development
557 adopted pursuant to part I of chapter 297, shall consult with the
558 commissioner in making such revisions.

559 (b) Each state department, institution or agency responsible for the
560 primary recommendation or initiation of actions within the coastal
561 [boundary] area which may significantly affect the environment, as
562 defined in section 22a-1c, shall insure that such actions are consistent
563 with the goals and policies of this chapter and incorporate all
564 reasonable measures mitigating any adverse impacts of such actions
565 on coastal resources and future water-dependent development
566 activities. The Secretary of the Office of Policy and Management shall
567 consider the consistency of such proposed actions with such goals and
568 policies in determining whether or not an environmental impact
569 evaluation prepared pursuant to section 22a-1b satisfies the
570 requirements of sections 22a-1a to 22a-1h, inclusive, and regulations
571 adopted pursuant thereto. The commissioner shall amend such
572 regulations, if necessary, to insure consistency with the goals and
573 policies of this chapter.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>October 1, 2006</i>	22a-91
Sec. 2	<i>October 1, 2006</i>	22a-92
Sec. 3	<i>October 1, 2006</i>	22a-93
Sec. 4	<i>October 1, 2006</i>	22a-94
Sec. 5	<i>October 1, 2006</i>	22a-99
Sec. 6	<i>October 1, 2006</i>	22a-100

ENV *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Department of Environmental Protection	FF - Revenue Gain	Potential	Potential

Note: FF=Federal Funds

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	Revenue Gain	Potential	Potential

Explanation

The bill applies certain aspects of the Coastal Area Management Act to the entire town and adds 18 river municipalities to the current 36 coastal towns. The change could allow the Department of Environmental Protection (DEP) to be eligible for an increase in federal funds for the state and municipalities. The exact impact is indeterminate at this time.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future.

OLR Bill Analysis
HB 5565

AN ACT CONCERNING THE COASTAL AREA.

SUMMARY:

The Coastal Management Act (CMA) sets goals and policies to balance development and protection of the state's coastal resources. It requires state agency actions to be consistent with those policies in areas the law designates as coastal areas and establishes standards by which state and local authorities must review certain activities within coastal boundaries.

This bill expands CMA's application in three ways. First, it applies some of CMA's policies and provisions to coastal areas, which include entire towns, rather than the narrower coastal boundaries. Second, it adds 17 Connecticut River municipalities and one Housatonic River town to the 36 towns the law considers coastal areas. Third, it expands the CMA to cover tidal, as well as coastal, resources.

By law, unchanged by the bill, the Department of Environmental Protection (DEP) must assure consistency with CMA's goals and policies in these coastal areas when it grants, denies, or modifies DEP permits, such as the permit for dredging or erecting structures.

The bill requires certain state and federal agency actions, such as the state permitting process, to be consistent with CMA's goals and policies throughout the 54 coastal area towns, rather than within the coastal boundaries of the 36 towns. It requires certain state agency actions in coastal towns, rather than areas just within the coastal boundary, to also be consistent with the State Plan of Conservation and Development.

EFFECTIVE DATE: October 1, 2006

COASTAL MANAGEMENT ACT

The Coastal Management Act establishes goals to ensure that coastal land and water resources are developed in a way that (1) does not significantly disrupt the natural environment or sound economic growth; (2) preserves and enhances those resources; and (3) gives high priority and preference to “water-dependent” uses, including commercial and recreational fishing and water-based recreation.

It establishes policies for federal, state, and local agencies to follow within a town’s coastal boundary, which is the furthest inland of (1) the 100-year-frequency coastal flood zone, (2) a 1,000-foot setback from the mean high-water mark, or (3) a 1,000-foot setback from the inland boundary of the tidal wetlands.

COASTAL AREAS

Under current law, coastal areas include the land and water within 36 coastal towns. Each of these towns has within it a coastal boundary.

The bill expands the number of coastal areas to include the towns of Cromwell, Derby, East Haddam, East Hampton, East Hartford, East Windsor, Enfield, Glastonbury, Haddam, Hartford, Middletown, Portland, Rocky Hill, South Windsor, Suffield, Wethersfield, Windsor, and Windsor Locks. The newly added towns are also considered coastal municipalities. The bill does not extend the coastal boundary to these towns. Although it authorizes municipal planning, zoning and other local regulatory authorities to manage uses in coastal areas, instead of coastal boundaries, it specifically does not expand, impair or modify the authority of these agencies in the towns it newly designates as coastal areas.

State Programs and Agency Actions

By law, all major state plans, other than the State Plan of Conservation and Development (plan of C&D), that affect the coastal area must be consistent with the CMA’s goals and policies. The law required plans to be revised by July 1, 1981 to accomplish this end. The bill requires state agencies to revise the plans to ensure

consistency in each of the 54 coastal area towns, rather than just within the coastal boundary of the 36 towns. But it does not change the 1981 revision date. The bill applies Plan of C&D policies concerning state agency actions using state or federal funds to coastal areas, rather than just to lands and waters within the coastal boundary, but the law does not require that the Plan of C&D be consistent with the CMA.

It requires each state agency responsible for the primary recommendation or initiation of actions that may significantly affect the environment within the coastal area, rather than the coastal boundary, to (1) ensure that its actions are consistent with the goals of the CMA and (2) incorporate all reasonable measures to mitigate any adverse impacts on coastal resources and water-dependent development activities.

DEP Permit and License Hearing Procedure

By law, a coastal municipality may submit written testimony to the DEP commissioner and may appear as a party to any hearing before her on a permit or license issued for an activity occurring within the town's coastal boundary. The bill expands this ability by permitting the town to submit testimony on a permit or license for an activity in any part of the town. By law, the town also may submit such testimony for any activity occurring within the coastal boundary of a neighboring town and within 500 feet of the first town's border. It may also appeal the commissioner's decisions.

TIDAL WATERS

By law, coastal waters include tidal rivers, streams, and creeks with a salinity concentration of at least 500 parts per million under low-flow stream conditions the commissioner establishes. However, the bill also specifically:

1. makes unreasonable restriction of physical or visual access to tidal waters grounds for restricting or excluding certain facilities or uses;
2. requires state, federal, and local agencies to require that

structures in tidal waters be designed, built, and maintained to minimize adverse impact on coastal resources, and to encourage increased recreational boating use in tidal waters;

3. makes it state policy to disallow any filling of tidal wetlands and other state waters for creating new land from existing tidal waters that could not be developed otherwise, unless it would have minimal adverse effect on coastal resources; and
4. expands adverse impact on coastal resources to include degrading water quality by introducing into tidal waters suspended solids, toxics or heavy metals, and degrading circulation patterns of tidal waters through the significant alteration of patterns of tidal exchange or flushing rates.

BACKGROUND

Tidal Waters

Tidal waters are waters subject to the ebb and flow of the tide, such as rivers.

Actions That May Significantly Affect the Environment

By law, an action is an individual activity or sequence of planned activities proposed by state departments, institutions, or agencies or funded in whole or in part by the state. An action affecting the environment is one that could (1) have a major impact on the state's land, water, air, certain historic landmarks and structures, existing housing or other environmental resources or (2) serve short-term to the disadvantage of long-term environmental goals. It does not include emergency measures undertaken in response to an immediate threat to public health or safety or ministerial activities involving no exercise of discretion on the state agency's part.

Coastal Zone Management Act

The state's coastal management act was adopted under the federal Coastal Zone Management Act, which gives the state power to regulate certain federal actions under state law.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 26 Nay 0 (03/10/2006)